

*Capt. John Reynolds*

**REPORT**

OF

THE COMMITTEE

APPOINTED TO INVESTIGATE THE CONDUCT OF THE

**CANAL COMMISSIONERS**

AND

**THEIR AGENTS.**

MR. IRISH of Northampton, CHAIRMAN.

READ IN THE HOUSE OF REPRESENTATIVES, APRIL 7, 1834.

**HARRISBURG:**

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1834.



## REPORT, &c.

Whereas, It has been currently reported that the Nanticoke dam has again in part been destroyed, which will, unless speedily repaired, render entirely useless the North Branch division of the Pennsylvania canal: And whereas, it is further reported, that good and responsible men offered to construct said dam for a less sum than was paid for its construction, and to give good and sufficient security that the dam should remain firm and good for twenty years: Therefore,

I. Resolved, That a committee be appointed, whose duty it shall be to explore, if it be deemed necessary, the North and West Branch divisions of the Pennsylvania canal, and inquire into and report to this House, any information that they may obtain relative to the above and following facts.

II. The cause of the large expenditures of public money at the Shamokin dam shute and vicinity, and who were the persons interested in repairing the same.

III. The cause of part of the Nanticoke dam being destroyed.

IV. Whether any or all contracts on the canal between said dam and the head of the Lackawanna feeder were given to the lowest responsible bidder.

V. Why payment is withheld from certain contractors whose work is completed and approved of in the manner prescribed by law.

VI. Why certain farm bridges are not built over the canal for farmers who have released their lands through which the canal passes, on condition that such bridges should be built.

VII. Why a bridge has not been built over the canal on a public road leading from Pittstown ferry, and why one was built over the canal a half a mile below, where there was neither farm nor road to be accommodated by it.

VIII. How certain estimates of materials for the construction of locks, bridges, &c. made by the engineer on and now having charge of the North Branch division, for certain individuals who gave up their contracts, held out when made use of for the aforesaid locks and bridges.

IX. How many engineers, assistants and subs, target men, and clerks, were employed on fourteen miles of canal in Wyoming valley, last year, and how many there are at this time; also whether persons not authorized by law, have not been suffered to employ and pay men to work for the Commonwealth, and if so, whether such persons have not been in the practice of paying men seventy-five cents per day and returning them at one dollar; and also,



whether such persons have or have not paid labourers for several days more than they were employed, for the purpose of making twenty-five cents on each day so paid for.

X. And whether any of the above named persons so employed, were either directly or indirectly interested in any of the contracts over which they had charge as agents of the Commonwealth.

XI. Also to inquire whether any engineer, superintendent, supervisor, or any person or persons holding appointments under them, have been or are now interested in contracts in any of the public works, or whether any of the public money has been used for purposes other than those authorized by law.

Resolved, That the committee be invested with power to send for persons and papers.

Resolved, That two additional members be added to the committee, appointed on the 15th instant, to explore the North and West Branches of the Pennsylvania canal, &c. and that the committee have power to enquire into the general official conduct of the canal commissioners, if they deem it necessary.

The committee appointed under the foregoing resolutions, report :

That they have performed the duty assigned them with great labor, and all the care called for by the importance of the enquiries committed to their charge, and consistent with other duties. Their attention has been chiefly occupied by this subject for the last two months. It was spread over a great surface, embraced numerous public agents, and a wide scope of investigation. The information received was in many instances imperfect, consisting of surmises and rumours often, which, when approached, were found to be without foundation, unsubstantial, or susceptible of the plainest and most satisfactory explanation. The complaints even when well founded, were rarely accompanied by proper information, which might direct the committee, or by the names of witnesses who could establish the alleged facts, but individuals were frequently mentioned, who, when called and sworn, were ignorant of the matters supposed to be within their knowledge. This was perhaps unavoidable, for the committee think, and it is not intended by this general remark to reflect upon any one, that in a system so extensive and complicated as ours of internal improvement, it is exceedingly difficult to discover and prove frauds even where they do exist. This very difficulty made our examination necessarily tedious and discursive, both the complainants and the committee often groping their way in the dark, and travelling over much ground without any profitable result. The investigations were however made with patience and perseverance, and the issue has been the discovery of some frauds, and of acts, not marked by want of integrity, but in the estimation of your committee, deserving disapprobation for the past, and prohibition for the future. Many of the facts hereinafter detailed, perhaps all that merit reprobation, it is believed, would have been concealed, and successful enquiry frustra-



ted, if the investigation had been made in the capitol; the manner of the examination, independent of its immediate results, will have the happiest moral effect on the different lines of the public works, and it is recommended, as the fruit of the experience of the present occasion, that, if future enquiries shall be thought necessary, the course adopted be adhered to.

The committee left Harrisburg on the 7th of February last, to explore the canals on the North and West Branches of the Susquehanna river, and returned to their seats in this Hall on the 8th of March last. During their absence they visited every part of the canals to which their enquiries were directed, or at which it was presumed information useful to the Commonwealth might be elicited, and examined many witnesses. Since their return they have been almost daily engaged in prosecuting enquiries into alleged frauds and abuses on the Delaware division, and in discharging a duty imposed upon them by an order of the House of Representatives of the 13th day of March, of which, and their acts under it, they will speak particularly hereafter, and in the proper order of time.

On the arrival of the committee at Northumberland the following communication, dated 10th February, was made through the chairman, by John Mitchell, Esq. one of the canal commissioners, who accompanied the committee throughout their exploration.

“SIR :—Having now arrived at the point where I presume my official conduct will be the subject of enquiry by your committee, I respectfully ask that you will make known to me, in writing, the course it may be the pleasure of your committee to pursue, as regards affording me the necessary facilities for defence.

“The peculiar manner in which this business is likely (and perhaps necessarily) to be conducted, appears to be calculated to deprive me of the right I have to be furnished with copies of the charges exhibited against me, before the examination of witnesses to prove my guilt. With the view however of accommodating, I may perhaps agree to waive for the present this right, upon the committee expressing a willingness to afford me a subsequent hearing, upon all the charges preferred, and an opportunity of cross-examining the witnesses now offered.”

This application was deemed neither improper nor unreasonable, and yet it was not possible to comply with it beyond what is contained in the subjoined reply, which was on the same morning handed to the commissioner.

“Sir—The committee of the House of Representatives of Pennsylvania, now sitting at Northumberland, have received your communication, and in reply state, that the committee will afford you the fullest opportunity of cross-examining all witnesses who may be adduced before the committee, and every facility and time to produce witnesses on your behalf—and every proper opportunity for defence hereafter.

“The principal subjects of inquiry here are the expenditures in and about the erection of Shamokin dam, and the repairs made during the last summer; also, the expense, &c. in repairing the works at the



mouth of Penn's creek ; also, some additional inquiry into the management and superintendence of the Susquehanna division of the canal under direction of Peter Martz, Esq. The committee propose, likewise, to examine a few witnesses, who are in the neighborhood, in relation to the Muncy dam.

“ While the committee are willing to afford you all the facilities, and desirous of giving you and all others who may be within the range of their investigation, every opportunity for explanation, and to exhibit the truth, they reserve the right to add to any charges or subjects of inquiry that may be made or proposed, others that may occur to themselves, or be presented by other persons, either here or elsewhere ; for they cannot be expected to make accurate and precise specifications, when their duty (imposed on general allegations) is to inquire into particular facts—but *in all cases*, you, and all concerned, shall have ample time and opportunity for defence.”

Four days were spent at Northumberland in the examination of witnesses, and the investigation of charges preferred against the commissioners and Peter Martz, the supervisor.

John Snyder, Esq. of Union county, Pennsylvania, appeared before the committee, and charged “ John Mitchell, Esq. canal commissioner, with exceeding his legal authority under the act of 30th March, 1832, in withholding payment of six hundred and eighty-three dollars, awarded to him by persons appointed under the law of 1826, by the Court of Quarter Sessions of Union county, and confirmed by said court nisi at May sessions, 1829, when exceptions were filed, which were withdrawn, and confirmation absolute, by consent of John Ryan and Francis W. Rawle, esquires, on behalf of the Commonwealth, at September sessions, 1829 ; which judgment and proceedings were removed to the Supreme Court by certiorari, in the summer of 1832, where they now are and remain undecided ;”—and offered John A. Sterret, Esq. of Northumberland, to prove that the agents of the Commonwealth withdrew the exceptions, and that the judgment took place at their instance. This testimony the committee rejected, on the ground that the record, now in the Supreme Court, affords the best evidence of what took place at the time the judgment was entered. No further evidence was proposed or adduced ; but to have heard any would have been a vain consumption of time, for no doubt was entertained that the pendency of the proceeding in the highest court in the State precluded inquiry elsewhere.

The same individual preferred a second charge against the same commissioner, viz., that he “ knowingly and wilfully neglected his duty in not discharging E. N. Doan, the lock and bridge tender at Northumberland. He was informed by his bail, that he was negligent and intemperate, and ought to be removed, which the said John Mitchell promised to have done, which he did not do in due time ; and also neglected bringing a suit against his security, allowing their time of liability to expire, all which was done to save a friend, to the great damage of the commonwealth.” The proof was that Doan,



(who is now dead,) when appointed by the canal commissioners, was an excellent clerk—was not known to be intemperate, and was fully competent to the discharge of the duties of his office—that in the summer of 1832, and especially of 1833, he became very intemperate, but there is no evidence that his habits were known to the commissioners until the end of June or beginning of July last, when they made an official visit to Northumberland; they were about to remove him, when at the intercession of many of his friends, and particularly of one of his bail, and on his own promises of amendment, he was continued on trial, but information having been communicated, according to arrangement, to the board of the continuance of his unfortunate habit, he was dismissed on the 19th day of August, and within a few weeks after the first information of his misconduct. No testimony was given of any notice from the bail, nor of any negligence in bringing suit, by which recourse to them has been lost; on the contrary, one of them, Mr. William Colt, of Danville, who was examined as a witness, said, “there was no notice given to the canal commissioners, or either of them by myself, or to my knowledge by the other bail, and the bail are ready to settle their liability at any time.” The committee have not any reason to believe, that the commonwealth has suffered from the appointment of Mr. Doan, nor do they perceive that censure can justly attach to any one in regard of it.

The subsequent labours of your committee, at this point, resulted in the conviction, that there was an utter destitution of moral principle in the supervisor of the Susquehanna division, and that the most fraudulent and criminal practices against the commonwealth were carried on, by one who a twelve-month ago had a seat on this floor, and who at the very time of his disregard of every suggestion of honesty, and prompting of duty, was a judge of Northumberland county. It was in full proof that Peter Martz, the person alluded to, gave to a certain Daniel Garrett, a labourer on the public works, scrip for the amount of his wages, which he told him would be discounted at the Middletown bank, and to meet the discount, he ordered Garrett to add eight or nine days to the check roll, or paper prepared for settlement at the Auditor General's office, for which no service whatever was rendered—it was done, and the commonwealth defrauded—this fact was admitted and justified by Martz before the committee. The sense entertained and expressed at the moment of conduct so gross, alarmed this unworthy agent, and caused him to tender his resignation of the situation of supervisor to Mr. Mitchell, by whom it was immediately communicated to the committee. Practices still more censurable, because involving more distinctly the object of personal gain, by the same individual, began to discover themselves. Books containing accounts or statements, of the number of days individuals had laboured for the commonwealth, were produced and sworn to, from which it was manifest, that there was one sum paid to those individuals, and a different amount charged to the state—there was positive proof of the actual time, and a memorandum from the Auditor Gene-



ral's office, showing a different one; but a more rigid examination, and certain test of truth, were resorted to. Since the return of your committee to Harrisburg, the official papers on file in the office of the Auditor General have been carefully examined, and the result is, that the supervisor defrauded the commonwealth out of three hundred and eighty-one dollars, in the account of work done under a single foreman. He had employed on his division ten other foremen, under whom more hands were engaged, and in whose accounts still more flagrant frauds were probably perpetrated. The mode in which he abused his trust was this: he had a check roll made out, sworn to, and receipted by the workmen, whose accounts it contained, after which, and before its return to the Auditor General, he added to the number of days set down in it. Comment on such conduct is unnecessary.

The cause of the increased expenditure in the construction of Shamokin dam will be found in what follows. The erection of the dam was contracted for according to certain specifications, exhibited at the time of the biddings at Northumberland, when the Eastern division was allotted to Wilson, Colt, M'Reynolds, Stoughton and Saxton, at sixteen dollars and fifty cents per foot lineal; and the Western division to Knox, Morrison, Tomb, and Samuel Stewart, at sixteen dollars. The plan of the work was subsequently altered and enlarged, under a reservation in all articles of agreement signed by the canal agents, so as greatly to increase the work necessary to be done, and the expenditure by the contractor to nearly double its original amount in the opinion of some of the witnesses. Whether that was precisely so the committee had no means of ascertaining, the dam being of course under water, but they are fully satisfied that the plan was much extended, and most beneficially, and that the dam itself is one of the most beautiful, and, it is believed, permanent structures of its kind to be seen in any country. The chute at this place has been heretofore an unfortunate pass for the craft on the river; it is now an admirable specimen of water construction erected by M'Reynolds, Lee, and Shriner, and affords a safe channel to the waterman. The improved quality of the chute could only be procured at an increased price, and the devastations of the flood of May last occasioned and made indispensable large expenditures at and near the western abutment of the Shamokin dam, and near the mouth of Penn's creek, and in the vicinity of Selinsgrove. Edw. Y. Bright of Sunbury, and Henry W. Snyder of Selinsgrove had contracts for repairs and furnishing stones, the Eastern abutment was built by Weiser and Bright, and the Western by Stewart, Knox, Tomb, and Morrison. The committee found it impossible to make as rigid a scrutiny, as they think is necessary, into the measurement of Shamokin dam, and the stone furnished in its vicinity and near the mouth of Penn's creek and Selinsgrove, and recommend that a competent agent be employed by the Auditor General to make such scrutiny. No censure, where it is not expressed, is intended to be cast on any one, but the matters referred to are deemed worthy of strict enquiry.



Nanticoke dam was in part destroyed and carried off by a flood in October last. It had previously suffered a like injury, and the necessary consequence of its repair was that it was strongest where renewed. It was desirable that the same soundness should uphold it all, and the engineer to this end, about the first of October, ordered the commencement of the necessary work by uncovering the old part of the dam, which was done so as to give employment to all the hands engaged upon it; but thus exposed it was found to be in a much more crazy condition than was apprehended, and so undermined and weakened that it was believed by those who saw and worked upon it, it must have yielded to the first ice flood. About eighty feet had been uncovered, which were in various stages of repair, when the river, swollen by rains, swept it off. The flood rose in one night, and obliged the contractor to abstain from the further prosecution of the work, of the necessity for which doubt cannot be entertained, one of his hands having been drowned in the effort to perform his engagements. This occurred about the 10th or 11th day of October last. The freshet was sudden and beyond man's controul, but the committee think it would have been much more judicious to have placed this work under contract in the summer, especially as it would no longer answer the purpose of feeding the canal, which was effected by a coffer dam.

The contracts between the Nanticoke dam and the head of Lackawanna feeder were not always given to the lowest bidders, who might be regarded, or might be, absolutely, good and responsible men. Those conversant with the world, will readily understand the reason of this. Different estimates are made by several individuals, prompted by the purest motives, of the qualification of bidders; a man may be honest and industrious and want capacity; he may be capable and want the other requisites; or the passion of avarice may over-rule all the obligations to fidelity in the execution of his contracts. Where public works have been some time in progress, those who usually propose for work, have characters as distinctly marked as in general society, and the officers, whose duty it is to contract on behalf of the state, have sometimes let jobs to bids, when there were lower proposals, but never, so far as your committee know, where there was not a satisfactory reason for it. At the inception of our internal improvement system, contracts were allotted to the lowest bidders, for the reason that they were the lowest, but experience soon proved that many of the persons so preferred, (chiefly from other states,) slighted their work, drew money on account of it according to contract, very frequently abandoned their jobs, and became bidders at the re-lettings, which their own misconduct made necessary. Duty required that the *best* bidders should be preferred, and the committee are decidedly of opinion that the public interest has been advanced by it.

There is believed to be no instance of payment being withheld from contractors, whose work is completed and approved of in the manner prescribed by law, except one, which is attended by the following circumstances.



James M. Long was a contractor on the Wyoming division for a water way and apron, at lock No. 4, for the construction of which the final estimate, made on 2d January last, amounted to five hundred and twenty five dollars seventeen cents, on which Lord Butler the superintendent claimed a credit of four hundred and fourteen dollars forty nine cents, for so much undertaken to be paid by him to Aaron Brown for lumber furnished at locks 4 and 5, (Long and George Law having been contractors for No. 5,) and which sum the superintendent actually paid to Brown on the 13th January last, as appears by the estimate and receipt in the Auditor General's office. Messrs. Long and Law, were also contractors for a waste wier, at lock No. 4; it appeared that Mr. Long called at Mr. Butler's office in Wilkesbarre early in January last, and on Saturday evening; the witnesses say, "there was a controversy with Brown, or about lumber got from Brown, and Long would not settle that matter until he saw A. Brown and settled with him, when he was to come back and settle with Butler." The superintendent then gave Long a check dated January 3d, 1834, on Wyoming bank at Wilkesbarre, payable to James M. Long, or bearer for two hundred dollars, which was produced, and was endorsed "James M. Long," and there was written thereon, "credit the Easton bank—Tho. M'Keen, Pres't." The witnesses testify that Mr. Long did not return as he said he would, but left Wilkesbarre on Sunday, and that they have not seen him, nor do they believe he has been, there since, all which is conclusively fortified by the check and the manner in which it was negotiated. Where the right is between these parties, it does not become the committee to say, but they may add that they do not perceive in the transaction any corrupt detention of money from contractors.

It is natural that citizens whose farms lay contiguous to the line of the canal, and inhabitants of villages, through which it may pass, should desire to have bridges located at scites different from those selected. The reasoning of private convenience and interest lead to the one conclusion, and of public duty to the other. Several complaints were made by farmers on this score, but the committee have not been convinced that there was any just ground for them: and the town authorities of Milton, alleged that they were entitled to a bridge over the canal, where it crossed a street in the village. There are several bridges within the corporate limits, and two at the distance of a lot's length each from the point of complaint. It is certainly a public duty to place bridges over the canal, where it interferes with roads or streets, and the time will come, perhaps shortly, when one must be erected in Milton, but at present when there are but few houses, not more than four or five, to be accommodated, and they not more than probably two hundred feet from two bridges, it is thought the canal commissioners exercised a sound discretion in not building another.

The committee were directed to inquire "why a bridge has not been built over the canal, on a public road leading to Pittston ferry, and why one was built on the canal a half mile below, where there was neither farm nor road to be accommodated." This ground has been examined. The canal runs close to the river, and immediately out-



side, and north of it is the road, constructed chiefly by the State. There was an old ferry at Pittston, which the canal has cut off from the road. Long before the canal was laid out at this place, viz: in April 1825, an order was obtained from the court of quarter sessions of Luzerne county, for a road from the great road to the ferry; this order was not acted on in the usual course, but about three years ago, it is said, the road was opened by the removal of fences; at present the ground, between the great road and the canal, is a narrow, unclosed and barren strip of land; and last fall the banks of the canal were cut down without authority, or propriety, so as to allow wag-gons to pass over. This ferry road, if such it can be called, for it does not appear to have been confirmed by the court, or indeed regularly returned to it, (the only evidence produced being an office copy of the order without date,) is probably not more than from sixty to ninety yards long, and the slope of the bank is so steep that the expense of making an abutment on the river side of the canal must be considerable, and the abutment itself cover so much ground as to interfere with the landing of the ferry. A bridge is built perhaps half a mile further down, and the reason assigned is the saving of expense to the State. The committee concur in the opinion that a smaller sum built the bridge where it is, than would construct one where it is wished; nor do they think there is any thing in the suggestion that there is no road to the river, for the great road, canal and North Branch, are all together at this point; and there is a ferry at both places, in fact the banks on either side afford ferries for a great extent; still it is believed the bridge ought to have been erected at the old ferry, here it is understood the river can be crossed with safety and ease at all times, especially in freshets, when it is said, it cannot sometimes be passed lower down, and that the landing is better for craft descending the water than at any other point in the vicinity. The road of 1825, is not thought to deserve much consideration, and probably has no legal existence at this moment, nor is the public inconvenience very great; the distance between the two points is not more than half a mile, there is an excellent road between them, and the business cannot be very extensive.

At lock No. 5, on the Wyoming division, the work was suspended for want of funds, and not resumed, and the contractors were allowed for four hundred perches of stone, at ninety cents, which were measured when built into the wall by subsequent contractors, and credited to the state for eighty-one perches, at ninety cents per perch; at lock No. 4, the contractors, under the same circumstances were allowed for four hundred and sixty perches, at ninety cents, which upon being measured in the wall as before mentioned, amounted only to one hundred and eighty-three perches, and were so credited to the state at ninety cents; and at lock No. 3, the Commonwealth credited the contractors, who did not resume by nine hundred and thirty-six perches of stone at one dollar, and received herself in the manner stated, a credit for three hundred and one perches, at a dollar per perch. The measurement of these stones, in the first instance, was made by Mr. Furguson, former engineer, and Mr. John Bennet, the present



engineer—and in the wall, by Mr. Shannon, late assistant engineer. The difference is certainly very great—Mr. Bennet, says, the stones were scattered over an half acre or more of ground, and it was difficult to be accurate. Admitted, and still the discrepancy is too wide to allow it to be passed without notice, or without the observation that it should not have occurred.

There were in public employment on fourteen miles of canal in Wyoming valley, last year, John Bennett, chief engineer, Charles P. Shannon and George Shoemaker, assistant engineers; Ochmeg Bird, and Milton Cortwright, target men, and Samuel Spencer, axe man; and the same individuals are still in public employment, with the exception of Mr. C. P. Shannon, who has recently left the service. Your committee have not heard that persons not authorized by law have employed and paid men to work for the Commonwealth, nor that any of the above named public agents were either directly or indirectly interested in any of the contracts over which they had charge, as agents of this Commonwealth, nor have they any reason to believe that “any engineer, superintendent, supervisor or any person or persons holding appointments under them, have been or are now interested in contracts in any of the public works, or that any of the public money has been used for purposes other than those authorized by law,” unless what is hereafter detailed shall be regarded as evidence of such use.

The Dunnstown dam, at the head of the Lycoming line of the West Branch division of the canal, and which is from twelve to fourteen feet high, has attracted great public attention, and received, as it deserved, the anxious deliberation of your committee. This subject was approached in a mood unfavourable to those whose public services were specially connected with it. The dam and chute attached to it were constructed at an expense of \$104,409 33, and when it is remembered that many honestly believe that this large sum was, in part at least, disbursed to objects not warranted by law, it is not to be wondered at that some excitement has been produced in regard of it. That the Legislature meant to prohibit what has been done is possible, and as many think, probable; but that they have not done it, is apparent. The act of 1833, which authorizes the connexion of the Pennsylvania canal with Bald Eagle creek, above the Great island,—provides that it “shall not be effected by raising the dam to a greater height than six feet above low water mark.” The whole enquiry appears to be in a nut shell—Was the Dunnstown dam, as constructed, erected for the purpose of making the connexion, or for a much more important and indispensable end? It is presumed no one will gainsay the power of the commissioners to erect feeder dams; it is necessary to the execution of their duties, and it is a power which must necessarily be without limitation, for the height that will make them effective must depend upon the quantity of water, the size of the stream, its sinking in summer, or maintaining its volume, the fall in it, and a variety of other characteristics. Is this a feeder dam to the main line, and the Bald Eagle use of it merely incidental? The committee think so. The resolution of the board of canal commissioners which authorized its construction, is in the following words:



“Resolved, That the principal engineer of the upper portion of the Lycoming line of the West Branch division, be directed to locate and construct a dam and sluice in the river above the Great island, at or near the head of a small island, nearly opposite to Dr. Henderson's brick house in Lycoming county, *for the purpose of supplying the said canal with water.*”

The committee cannot unite in the presumption that the commissioners have made a record to suit the law, and not expressive of their real purposes. The uses which the dam answers are sufficient to convince the most illiberal. It actually feeds the canal from its head to Loyalsock creek, a distance of about thirty miles, which it is believed could not be effected by a dam of smaller dimensions; but at all events, if they were in the exercise of lawful authority, the greater or less height of the dam was matter of opinion, in which those who read and reflected most on such subjects were most likely to be right. The conclusion is, that the law of 1833 did not prohibit the erection of a feeder dam of any height; that the one in question being of that character, altho' 12 to 14 feet high, does not fall within the inhibition of the law referred to, and as a necessary consequence that its erection was lawful. The committee think it was also judicious. It is placed upon a most favourable scite, a good foundation being afforded for the dam, and the chute having through its whole length a rock bottom. The law authorizes the commissioners to effect the canal and Bald Eagle junction “above the Great island, if, in their judgment, it will combine utility with economy.” It appears that the estimate for forming the union below the Great island, by means of a dam, was \$63,173.94; that a connexion above the Great island, by means of a low dam, would require \$62,646.65, and a cut into the pool of the feeder dam, in conjunction with a dam in the Bald Eagle creek, would cost \$26,883.55, showing most conclusively in which direction economy pointed. If it had been practicable to feed the canal with a dam of six feet two or three miles higher up the river, and a dam of the same height had been placed at or near the mouth of Bald Eagle creek for connexion, the law would have been complied with in its letter, at an increased expense, with this striking disadvantage, that the water which ought to feed the canal would be wasted. It must be seen, that if the Bald Eagle cross cut struck the line at any point below its head, a lock to let boats into and out of the canal would be necessary, inasmuch as the pool of the dam below the Great island would be lower than the water in the canal, and a lock full of water must be lost every time it was filled. The committee have touched upon a few of the prominent considerations which have operated upon their minds and produced the conviction that this great work is not an infraction of the law, and that it is executed wisely and with great judgment and skill.

By the third section of the act of 1833 it is provided that the “canal commissioners shall not be authorised to incur any debt on the faith of the commonwealth in any way or measure beyond the appropriation aforesaid.” There is retained on all contracts fifteen per cent. of the amount engaged to be paid, which is subject to the control of the



board, and may be paid to the undertaker when the work is suspended, or if it be abandoned, may be paid or retained at pleasure, according to the circumstances of the case, and when a job is completed, it is embraced in the final estimate.

The committee are of opinion that the state and its agents hold this per centage as trustees of those who have earned it, that it is theirs, and is retained only by virtue of certain stipulations in contracts, and to ensure their more perfect performance, and that when an appropriation is otherwise fully expended, it is as much exhausted for all state purposes, as if this retained money was paid over. It is obvious that if it were not so, the law which has been cited, would become a dead letter, and superintendents, and other disbursing canal agents, might create a debt, for which the Commonwealth would be morally and legally bound, to any amount which the per centage might reach. If they can employ the money thus retained on the current work, and are permitted so to do, the contracts secure the payment of it, to him or them whose money has been thus used, and a debt is so thrown upon the state. This direct violation of the spirit of the law cannot be justified. These remarks are induced by the fact, that the back per centage was last autumn and winter applied to the work in progress, on the Lycoming line of the Pennsylvania canal, instead of being retained for its legitimate purposes. Neither the fact of its being done with the view of advancing the public interests by finishing and completing particular jobs, which in the opinion of the engineer and superintendent might or would suffer from delay, nor the facts that the intention of so doing was communicated to many of the contractors, who approved of it, and that there are few complaints on this account, afford any justification, although they may excuse the act. On such subjects no public agents, and particularly subordinate ones, should have any discretion, nor does the law leave them any. The committee accord full credit for purity of motive and fidelity of execution, but they must express their strong disapprobation of such a course, and the hope that it will not be pursued hereafter.

Since their return to the seat of government, your committee have been occupied by an examination of alleged abuses on the Delaware division. It appears that it has been the habit of one of the supervisors of this division, to take from the public works hands in the pay and employment of the Commonwealth, and engage them in work on his private property, and for his individual benefit. To some of the persons so employed, he stated that he intended to pay them out of his own purse for the services rendered to him; but it is remarkable that the time spent on the supervisor's property is included in the check rolls against the State—mingled with public services—sworn to and receipted as if the entire labour were on public account. It is true that there are small check rolls for October, November and December, containing a statement of work done for the supervisor individually, sworn to and receipted after the manner of the others, filed with them, and the amount deducted from the regular public check rolls; but it is worthy of observation, that some of the witnesses say they did not see the small check rolls when they receipted those of



the usual character—that the October roll was made out by one person, and the credit roll which accompanies it by another, and that they were all sworn to on the seventh day of February last, more than two weeks after the committee was appointed! Supposing every thing was fair and honest, the agent who could so far forget propriety, and open so wide a door to fraud, by blending the public accounts with his private affairs, should no longer be retained in the public service.

It is in addition proved, by one witness, that eight days more than he worked are charged in his name against the Commonwealth in the check roll for November last; and by another, that several hands worked for the supervisor in his individual capacity, in May and September, and that the services so rendered are charged to the State. That some just idea may be had of the amount of service rendered to this officer, and mixed up with the public accounts, it may be mentioned that his State check roll for October, amounted to eight hundred and fifty-seven dollars and eighty-eight cents, and his private one to one hundred and thirty seven dollars and seven and a half cents. Several workmen left the public employ, from whom the supervisor retained ten per centum of their wages. This may have been just, but the committee, upon inquiry at the Auditor General's office, have been informed that this money has not been accounted for to the Commonwealth, nor is it known to have been restored to the individuals from whom it was taken. If the canal commissioners entertain the same view of the facts disclosed that the committee have taken, it is presumed that the supervisor alluded to on the Delaware division will not long remain so.

The following report, and the resolution which produced it, have been referred to your committee:

WILLIAM PATTERSON, ESQ.

Speaker of the House of Representatives.

In compliance with the resolution of the House of Representatives, of the fifth instant, viz:

“Resolved, That the canal commissioners report to this House, whether either they or any of their agents, are in the habit of, or have on any occasion, given their drafts on the bank of Pennsylvania, where the public monies were by law deposited, in favor of other banks, or taken or paid out the notes of such other banks, instead of the notes of the bank of Pennsylvania, and if so, whether the said agents of the Commonwealth while thus using the public money, have been allowed by such banks, any compensation on such drafts, and if so, how much, and whether the profits so made out of the public funds, went or was applied to the use of such individuals, or to the Commonwealth.”

The following report is respectfully submitted,

That the canal commissioners are not authorized by law, to draw any money from the treasury of the Commonwealth, except for their own pay, that of the secretary, and the contingent expenses of their office. This money is obtained from the treasury by the Governor's warrant on the Treasurer, who pays the same by checks, which have been in every instance deposited in the branch bank of the bank of



Pennsylvania, at Harrisburg, to the credit of the secretary of the board, and by him drawn therefrom as required.

That the superintendents and supervisors are by law, constituted disbursing agents, on the several lines of canal and rail-roads, and give bond with sufficient security for the faithful discharge of their duties—they draw the requisite funds by drafts on the treasury, and their accounts are settled by the accounting officers of the treasury department. The canal commissioners have no control over the funds appropriated to the public improvements, except in directing the manner of their distribution among the disbursing agents, or their application to work required to be done.

That the drafts on the treasury as above mentioned, have from the commencement of the improvement system it is believed, been generally drawn by the disbursing agents through banks, most convenient to their respective lines. But the canal commissioners are not aware, nor have they any knowledge that those agents have ever sold drafts, or realized any profit from them whatever.

By order of the canal commissioners,

JAMES CLARKE, *President*

Canal Commissioners room, March 12, 1834.

The committee have endeavored to ascertain certainly how the facts stand in the particulars referred to. That the superintendent of the Lycoming division of the Pennsylvania canal exchanged fifteen or twenty thousand dollars of the notes of the bank of Pennsylvania for notes of the bank of Middletown, and paid them out on his line, is known, and would not probably have been denied, for he received no premium or commission. But the committee think the exchange ought not to have been made: whatever advantage there is in distant circulation, the bank of which the State holds three-fifths of the stock ought to have it, when in the power of State agents to confer it—and it is expected that they will in future regard this as their duty. Although the committee have not been able to ascertain precisely, by what confidential officer of the canal agency the notes of the banks in which the funds of the Commonwealth were placed, or drafts on those banks, have been exchanged with other institutions for their paper, and a premium allowed on such exchange; yet there remains not a doubt that such has been the fact, and probably in more instances than one. It is believed that many respectable men think that this may lawfully and honestly be done: a very different opinion pervades your committee, by whom it is thought the practice cannot be too severely reprehended. If this petty traffic is allowed, large speculations will offer, and a wide field be entered—the public funds will be used for private purposes, to the great hazard, and the almost certain ultimate loss, of the treasury. How are all violations of duty, and disregard of moral obligations, and want of public pecuniary faith, commenced? By some such liberty with what does not belong to the individual—by some act deemed venial; which is succeeded by one less so, and another, and yet another, until *he* finds himself at the foot of the hill, *who*, but a little while ago, would have shuddered at the thought of ever leaving its proudest height. The only security for the individual,



and the public, is the payment to state creditors of the identical money received from the Commonwealth: the creditors have a right to the best money, if there be a difference—the State should insist upon it as due to the banks who enjoy public patronage, and safe for the treasury. It is strongly recommended to the canal commissioners to remove the individuals who have been concerned in such practices, if they can be discovered, and to issue an order prohibiting for the future absolutely the exchange, with or without premium, of any funds received by public agents for account of the Commonwealth.

It will occur to all that a vast body of testimony must have been taken in so wide a range—that many particulars inquired into, and established or repelled, are not of sufficient importance to receive the notice of the House of Representatives or the public, and that many traces of investigation were pursued until they ran out. Long as this report may appear, the great anxiety has been to condense it, and to limit it strictly to those matters of which the communication seemed useful. In the unrestrained roam which the resolutions permitted, and which was freely indulged, nothing has been elicited calculated in the slightest degree to inculcate the canal commissioners, or either of them. The committee find pleasure in saying that although every test which could exhibit incapacity or expose want of fidelity and integrity was resorted to, their official characters are unstained. They are believed to be honest and capable. This opinion is entertained with the same unanimity which has adopted every part of the report, and is expressed strongly, because it is of the utmost consequence that there should be but one sentiment in respect of those, who are at the head of so important a branch of our public interests, as the internal improvement of our own State. A system, which although like all things human, it may have lost some of its value by error of judgment and improvident expenditure, is nevertheless, it is hoped, destined to elevate this great Commonwealth to a height of prosperity, which her sister communities may rival but cannot reach—to make her first in a competition which advances all, and to place her headmost in a struggle sustained by the most generous impulses, and gratifying in this instance in the precise proportion in which your competitors press upon you. The magnificent scale upon which our public improvements have been projected and executed has been the admiration of others; we are beginning to feel their utility. Whatever be his sentiments, every true son of Pennsylvania must unite in the hope that the most extravagant anticipations which have been indulged in respect of our State improvements may be realized—that the promise which the opening of this year holds out may yield its full harvest—that this fountain of expenditure may furnish a stream of plenty which shall supply your school fund, re-imburse your treasury, fill the reservoir of public and political prosperity, from which in turn you may irrigate and fertilize the entire State, and make it productive of as much enjoyment as is allotted to man on earth!

The following resolution is submitted:

Resolved, That the committee be discharged from the further consideration of the subject.